

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 28, 2022

8:30 a.m./1:30 p.m.

16. ANDREW DILLINGER v. KELLY DILLINGER

PFL20140829

On February 4, 2022 the court denied Petitioner's ex parte application and Petitioner's concurrently filed a Request for Order (RFO) requesting modification of the current child custody and visitation orders was calendared on the Law and Motion calendar for the instant hearing date. Respondent filed a Responsive Declaration to the ex parte application, which was considered by the court. The parties were referred to CCRC.

Although Represented by Counsel at the time, Respondent filed a lengthy declaration with the court on March 10, 2022. However, as there is no Proof of Service in the file showing Petitioner was served with the Declaration, the court did not review or consider the filing.

The parties both appeared for CCRC and a CCRC report was issued on April 13, 2022. Copies of the report were mailed to the parties on April 18, 2022.

On April 21, 2022 Petitioner filed a Supplemental Declaration and a Proof of Service by Mail showing service upon Respondent on April 20, 2021.

The court has read and considered the above filings and CCRC report and makes the following findings and orders:

Judgement was entered on June 18, 2018 and granted joint legal and physical custody to the parties pursuant to their agreement. The Judgement does not contain language indicating this order was intended to be a final order pursuant to *Montenegro v. Diaz* (2001) 26 Cal.4th 249, and therefore a best interest of the child standard applies.

The recommendations contained within the CCRC report are in the minor's best interest. Further, the court finds that the circumstances described by the minor provide a change in circumstances to warrant a change in legal custody to sole legal custody with Petitioner as recommended by the CCRC. The court adopts the CCRC recommendations as temporary orders. All prior orders not in conflict remain in full force and effect.

Petitioner shall prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #16: THE COURT ADOPTS THE CCRC REPORT AS THE ORDERS OF THE COURT. THESE ORDERS ARE TEMPORARY ORDERS PENDING FURTHER ORDER OF THE COURT. ALL PRIOR ORDERS NOT IN CONFLICT REMAIN IN FULL FORCE AND EFFECT. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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8:30 a.m./1:30 p.m.

17. CAROL FAURBACH (CARLISLE) v. WILLIAM CARLISLE

PFL20150037

(1) Change of Venue Motion

On February 17, 2022 Respondent filed a Request for Order (RFO) requesting the court grant a change of venue to Placer County. Respondent asserts that Petitioner does not reside in El Dorado County and her office is not located in El Dorado County and she rarely practices in El Dorado County. Respondent further contends that he does not practice in El Dorado County and his business office is no longer located in El Dorado County.

After a review of the file, the court finds that Respondent has not filed a Proof of Service showing that Petitioner was served with the above filing as required by law.

Despite no proof of service being filed with the court by Respondent, on April 6, 2022 Petitioner filed a Responsive Declaration to the RFO and a Proof of Service by Mail reflecting that Petitioner's Opposition to RFO to change venue, Request for 271 Sanctions, and Request for Address for service upon Respondent was served upon Respondent on April 5, 2022. Therefore, the court finds that Petitioner has had notice and an opportunity to be heard regarding the request to change venue.

The court has read and considered the above filings and makes the following findings and orders:

Respondent's request to change venue is denied without prejudice. Respondent has not provided sufficient grounds upon which the court should grant his request. (CCP §§ 397, 397.5.) There are numerous issues pending before this court, or which may be returned to this court following the resolution of the pending appeals. Further, although Respondent argues that Petitioner does not reside in El Dorado County, he does not assert that he is no longer a resident of El Dorado County. Rather, he contends that he does not practice in El Dorado County and his business office is no longer located in El Dorado County. Further, Respondent does not provide the court with sufficient justification as to why Placer County would be the appropriate jurisdiction. Therefore, the motion is denied without prejudice.

As to this issue, the court denies Petitioner's request for Family Code section 271 sanctions as Petitioner has not shown conduct related to this issue that violates the provisions of Family Code section 271.

(2) OSC filed by Petitioner

On February 2, 2022 Petitioner filed a Request for Order (RFO) and Declaration requesting the court to find Respondent in violation of his conditional release terms following the court's finding of contempt against Respondent.

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On March 17, 2022 the parties appeared before the court and the court found that service was improper as proof was not submitted showing Respondent was personally served. Following argument, with Respondent's consent, the court allowed service by certified mail and ordered Respondent to update his address with the court.

In Petitioner's April 6, 2022 Responsive Declaration filed with the court and served upon Respondent, Petitioner alleges that Respondent has provided conflicting information regarding his address

The court has read and considered the above filings, and has reviewed the file, and finds and orders as follows:

Respondent has not complied with the court order to update his physical address with the court. Respondent's current address is a P.O. Box. Although Respondent waived personal service and agreed to accept service by certified mail, he has failed to provide an address at which such service may be effectuated.

Petitioner filed a Due Diligence Log on March 4, 2022 detailing the efforts of the Process Service to serve Respondent. The court finds the 17 attempts to serve were on multiple days and at different times of day throughout the month of February 2022. The court finds that there is sufficient evidence before it that Respondent is evading service and authorizes Petitioner to serve Respondent at the address identified in the Due Diligence Log filed on March 4, 2022 ("Hawthorne Loop" address contained within the filing). The court further orders Petitioner to serve Respondent at his email address on file with the court, which is the same as that listed on each of his pleadings.

Petitioner's RFO is continued to June 9, 2022 at 8:30 am in Department 5, to be matched up with an OSC filed by Petitioner on April 8, 2022 against Respondent currently set for that date.

The court reserves jurisdiction over the issue of Family Code 271 sanctions against Respondent for his conduct relating to this issue.

Petitioner shall prepare and file the Findings and Order After Hearing.

TENTATIVE RULING #17: (1) RESPONDENT'S MOTION TO CHANGE VENUE IS DENIED WITHOUT PREJUDICE. PETITIONER'S REQUEST FOR SANCTIONS IS DENIED AS TO THIS ISSUE. (2) PETITIONER'S 2/2/22 RFO IS CONTINUED TO JUNE 9, 2022 AT 8:30 AM IN DEPARTMENT 5. THE COURT FINDS THAT RESPONDENT IS EVADING SERVICE AND ORDERS SERVICE AS INDICATED IN THE RULING ABOVE. THE COURT RESERVES JURISDICTION OVER PETITIONER'S REQUEST FOR 271 SANCTIONS RELATING TO THIS ISSUE. PETITIONER SHALL PREPARE AND FILE THE FINDINGS AND ORDER AFTER HEARING.

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April 28, 2022

8:30 a.m./1:30 p.m.

18. CLIFFORD BAKER V. MARIEL BAKER

PFL20200380

On January 18, 2022, Respondent filed a Request for Order (RFO) requesting modification of child support orders. Respondent filed an Income and Expense Declaration on the same date. Petitioner was served via mail on February 2, 2022, with Proof of Service filed on February 7, 2022.

Respondent requests a modification of the June 17, 2021 child support order. Petitioner is currently ordered to pay Respondent \$124 per month, as and for child support.

On January 19, 2022 parties filed a stipulation for child custody and visitation with the court. The current agreement of the parties is for joint legal and physical custody of the minors.

Petitioner had not filed a responsive declaration nor an Income and Expense Declaration.

On February 24, 2022 the court adopted its tentative ruling and continued the hearing and ordered Petitioner to file and serve an updated Income and Expense Declaration no later than 10 days prior to the next hearing date. The court reserved on the modification of child support to the date of the filing of the RFO.

On April 15, 2022, Petitioner filed an Income and Expense Declaration. Upon review of the court file there is no Proof of Service showing Respondent was served with Petitioner's Income and Expense Declaration. If Respondent waives defects in service, the court finds and orders as follows:

Respondent' has an average monthly income of \$2,080, (\$16 per hours for 30 hours a week, multiplied by 52 weeks a year, divided by 12 months) based on Respondent's Income and Expense Declaration. Respondent has no deductions and childcare costs of \$900 per month.

Petitioner has an average monthly income of \$7,322 per month based on his Income and Expense Declaration. Petitioner pays pre-tax \$200 per month for a Roth TSP.

Using the above figures and a 50% timeshare, the court finds that guideline child support is \$887. See attached DissoMaster Report. Beginning February 1, 2022, Petitioner shall pay Respondent \$883 per month as and for child support, payable on the 1st of the month, until further order of the court or termination by operation of law. This order results in an arrearage of \$2,289 for the months of February through April. Beginning May 15, 2022, the court orders Petitioner to pay Respondent \$190.75 per month as and for arrearages until paid in full (approximately 12 months). Any missed payment will result in the full balance being owed with legal interest.

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All prior orders remain in full force and effect. Respondent is to prepare and file the findings and orders after hearing.

TENTATIVE RULING #18: THE COURT ORDERS CHILD SUPPORT AS SET OUT ABOVE. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT. RESPONDENT IS TO PREPARE AND FILE THE FINDINGS AND ORDERS AFTER HEARING.

ATTORNEY (NAME AND ADDRESS): EDC Court California	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Pet.	DISSOMASTER REPORT 2022, Monthly	
		CASE NUMBER: PFL 20200380

Input Data	Pet.	Resp.	Guideline (2022)	Cash Flow Analysis	Pet.	Resp.
Number of children	0	2	Nets (adjusted)	Guideline		
% time with Second Parent	49%	0%	Pet.	5,797	Payment (cost)/benefit	(887) 887
Filing status	HH/MLA	Single	Resp.	2,572	Net spendable income	4,909 3,460
# Federal exemptions	1*	3*	Total	8,369	% combined spendable	58.7% 41.3%
Wages + salary	7,323	2,080	Support		Total taxes	1,526 (492)
401(k) employee contrib	0	0	CS Payor	Pet. # WHA	5	5
Self-employment income	0	0	Presumed	887	Net wage paycheck/mo	5,705 1,895
Other taxable income	0	0	Basic CS	887	Comb. net spendable	8,369
Short-term cap. gains	0	0	Add-ons	0	Proposed	
Long-term cap. gains	0	0	Presumed Per Kid		Payment (cost)/benefit	(1,077) 1,077
Other gains (and losses)	0	0	Child 1	262	Net spendable income	5,123 3,311
Ordinary dividends	0	0	Child 2	626	NSI change from gdl	214 (149)
Tax. interest received	0	0	Spousal support	blocked	% combined spendable	60.7% 39.3%
Social Security received	0	0	Total	887	% of saving over gdl	326.9% -226.9%
Unemployment compensation	0	0	Proposed, tactic 9		Total taxes	1,123 (154)
Operating losses	0	0	CS Payor	Pet. # WHA	10	2
Ca. operating loss adj.	0	0	Presumed	1,077	Net wage paycheck/mo	6,135 1,785
Roy, partnerships, S corp, trusts	0	0	Basic CS	1,077	Comb. net spendable	8,434
Rental income	0	0	Add-ons	0	Percent change	0.8%
Misc ordinary tax. inc.	0	0	Presumed Per Kid		Default Case Settings	
Other nontaxable income	0	0	Child 1	390		
New-spouse income	0	0	Child 2	687		
Adj. to income (ATI)	200	0	Spousal support	blocked		
SS paid other marriage	0	0	Total	1,077		
Ptr Support Pd. other P'ships	0	0	Savings	65		
CS paid other relationship	0	0	Total releases to Pet.	2		
Health ins.	0	0				
Qual. Bus. Inc. Ded.	0	0				
Itemized deductions	0	0				
Other medical expenses	0	0				
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



LAW & MOTION TENTATIVE RULINGS

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April 28, 2022

8:30 a.m./1:30 p.m.

19. DCSS v. ALEXANDRA KEENER (OTHER PARTY: NICOLE FUSON) PFS20120124

On January 28, 2022 Other Party, Ms. Fuson, filed a Request for Order (RFO) requesting the court to modify the current custody and visitation orders, as well as for an order modifying the current child support orders. The parties were referred to CCRC and the RFO was placed on the Law and Motion calendar for the instant hearing date. Ms. Fuson filed an Income and Expense Declaration the same day. On February 22, 2022 Ms. Fuson filed a Proof of Service by First-Class Mail showing service upon Respondent the same day. Ms. Fuson did not include an address verification.

The parties attended CCRC and a CCRC report was issued on March 21, 2022. Copies of the report were mailed to the parties on April 18, 2022.

The court has read and considered the above filings and makes the following findings and orders:

Judgment was entered in this matter as to the child support obligation on April 18, 2012, during which DCSS was a party to the action. As such, the motion to modify child support is a post-judgment request to modify and the service must comply with Family Code section 215, to include an address verification. As Respondent has not filed a Responsive Declaration or an Income and Expense Declaration, the court cannot find he was properly served. The request to modify child support is denied without prejudice.

Judgement has not been entered on the issue of custody and visitation, the existing order occurring following a referral to CCRC. Therefore the court finds that service was proper and shall address the RFO.

Having reviewed the CCRC report, the court finds that the recommendations are in the best interest of the child, with the exception of the beginning of the week on/week off parenting schedule. The court finds there is insufficient support to warrant such a step-up plan and that the parties have been exercising a week on/off schedule. Recently Respondent even had full physical custody for a period of two months. As such, the court orders the week on/off parenting schedule shall begin the first Friday Respondent has visitation following the end of school. Exchanges shall be Fridays at 6:00 pm at the current exchange location, unless otherwise agreed to in writing by the parties. The court strongly encourages the parties to fully participate in counseling as recommended, finding that the counseling is highly likely to address the issues brought up in the instant motion. If either party feels that the minor is not doing well, a motion to modify may be brought forth. All other recommendations are adopted as the court order as indicated in the CCRC report. All prior orders not inconsistent with these orders remain in full force and effect. Ms. Fuson shall prepare and file the Findings and Order After Hearing.

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8:30 a.m./1:30 p.m.

TENTATIVE RULING #19: OTHER PARTY'S REQUEST TO MODIFY CHILD SUPPORT IS DENIED FOR IMPORPER SERVICE AS INDICATED ABOVE. THE CCRC REPORT IS ADOPTED AS MODIFIED ABOVE. ALL PRIOR ORDERS NOT INCONSISTENT REMAIN IN FULL FORCE AND EFFECT. OTHER PARTY SHALL PREPARE AND FILE THE FINDINDS AND ORDERS AFTER HEARING.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 28, 2022

8:30 a.m./1:30 p.m.

20. KELLI JEANCOQ V. RAYMOND LONERGAN

PFL20190708

On September 30, 2021 Respondent filed a Request for Order (RFO) requesting modification of the child custody and visitation orders, as well as the child support orders. The parties were referred to CCRC and the RFO was set on the Law and Motion calendar. On October 27, 2021 Respondent filed a Proof of Personal Service showing service of the RFO and "Declarations 2b/2c Minute Order" upon Petitioner on October 6, 2021. Respondent did not file a Proof of Service showing that the referral to CCRC was served upon Petitioner such that Petitioner would know to participate in the CCRC session.

Respondent appeared for the CCRC appointment and Petitioner did not. A CCRC report was issued on November 8, 2021. Copies of the report were mailed to the parties on November 8, 2021.

On December 16, 2021, the court adopted its tentative ruling. Parties were rereferred to Child Custody Recommending Counseling (CCRC) for an appointment on January 17, 2022 and a further review hearing on March 3, 2022.

On January 31, 2022, the court issued an ex parte minor order resetting the CCRC appointment for March 9, 2022 and the review hearing for April 28, 2022. The prior CCR date was a court holiday. Parties were mailed a copy of the ex parte minute order on January 31, 2022. The court notes, the minute order was sent to a prior address for Petitioner and was returned to the court.

Neither party appeared at the March 9, 2022 CCRC appointment.

The court finds that Respondent was the moving party and he failed to attend the requested CCRC appointment, therefore, the matter is dropped from calendar.

All prior orders remain in full force and effect.

TENTATIVE RULING #20: THE MATTER IS DROPPED FROM CALENDAR. ALL PRIOR ORDERS REMAIN IN FULL FORCE AND EFFECT.

LAW & MOTION TENTATIVE RULINGS

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April 28, 2022

8:30 a.m./1:30 p.m.

21. PAUL DAVENPORT V. KENDRA DAVENPORT

PFL20180469

On January 14, 2022, Petitioner filed a Request for Order (RFO) request the court modify child support. Petitioner concurrently filed an Income and Expense Declaration. Respondent was served via mail on January 14, 2022 with Proof of Service filed the same day. Petitioner request the court modify the September 10, 2019 order for child support in the amount of \$1,458 per month as his current income from disability benefits is \$1,744.

Respondent had not filed a Responsive Declaration nor an Income and Expense Declaration.

On February 24, 2022, the court continued the hearing and ordered Petitioner to file and serve an updated Income and Expense Declaration no later than 10 days prior to the next hearing date. The court reserved on the modification of child support to the date of the filing of the RFO. All prior orders remained in full force and effect.

On April 15, 2022, Respondent filed a Responsive Declaration and Income and Expense Declaration. Petitioner was served by mail on April 15, 2022. Petitioner objects to the request to modify child support and requests the current order remain in full force and effect.

The court finds, based on Petitioner's Income and Expense Declaration, Petitioner's current income to be \$1,744.20 in Veterans Affairs Benefits. Petitioner has no deductions. Petitioner files taxes with a single status.

Based on Respondent's Income and Expense Declaration, the court finds her average monthly income to be \$3,400. Respondent has no deductions. Respondent has the minors in her care full time. Respondent files as head of household.

Using the above figures and a 0% timeshare for Petitioner, the court finds that guideline child support is \$635. See attached DissoMaster Report. Beginning February 1, 2022, Petitioner shall pay Respondent \$635 per month as and for child support, payable on the 1st of the month, until further order of the court or termination by operation of law.

The court notes this order may result in an overpayment of \$823 per month for the months of February through April, inclusive. However, the court is unclear if Petitioner is currently making the child support payments. The court reserves jurisdiction on the potential overpayment and sets a further review hearing on 6/9/2022 at 1:30 PM. Parties are ordered to file declarations as to the current status, whether there are arrears owed or if all payments have been paid in full, of child support payments no later than 10 days prior to the next court date. Failure to do so, will result in the court dropping the matter from calendar.

All prior orders not in conflict with this order remain in full force and effect. Petitioner shall prepare and file the findings and orders after hearing.

LAW & MOTION TENTATIVE RULINGS

DEPARTMENT 5

April 28, 2022

8:30 a.m./1:30 p.m.

TENTATIVE RULING #21: THE COURT GRANTS THE CHILD SUPPORT MODIFICATION AS OUTLINED ABOVE. THE COURT SETS A FURTHER REVIEW HEARING ON THE ISSUE OF POTENTIAL OVERPAYMENT OF CHILD SUPPORT FOR 6/9/2022 AT 1:30 PM. PARTIES ARE ORDERED TO FILE DECLARATIONS REGARDING THE CURRENT STATUS OF CHILD SUPPORT PAYMENTS NO LATER THAN 10 DAYS PRIOR TO THE HEARING. FAILURE TO DO SO WILL RESULT IN THE MATTER BEING DROPPED FROM CALENDAR.

ATTORNEY (NAME AND ADDRESS): EDC Court California	TELEPHONE NO:	Superior Court Of The State of California, County of COURT NAME: STREET ADDRESS: MAILING ADDRESS: BRANCH NAME:
ATTORNEY FOR: Pet.	DISSOMASTER REPORT 2022, Monthly	
		CASE NUMBER: PFL20180469

Input Data	Pet.	Resp.	Guideline (2022)	Cash Flow Analysis	Pet.	Resp.
Number of children	0	2	Nets (adjusted)	Guideline		
% time with Second Parent	0%	0%	Pet.	1,744	Payment (cost)/benefit	(698) 698
Filing status	Single	HH/MLA	Resp.	3,397	Net spendable income	1,046 4,095
# Federal exemptions	1*	3*	Total	5,141	% combined spendable	20.4% 79.6%
Wages + salary	0	3,400	Support	Total taxes	0	3
401(k) employee contrib	0	0	CS Payor	Pet. # WHA	0	8
Self-employment income	0	0	Presumed	(698)	Net wage paycheck/mo	0 3,069
Other taxable income	0	0	Basic CS	(698)	Comb. net spendable	5,141
Short-term cap. gains	0	0	Add-ons	0	Proposed	
Long-term cap. gains	0	0	Presumed Per Kid		Payment (cost)/benefit	(698) 698
Other gains (and losses)	0	0	Child 1	(262)	Net spendable income	1,046 4,095
Ordinary dividends	0	0	Child 2	(436)	NSI change from gdl	0 0
Tax. interest received	0	0	CA FAM 4055(b)(7) CS LIA range		% combined spendable	20.4% 79.6%
Social Security received	0	0		\$635 to \$698	% of saving over gdl	0% 0%
Unemployment compensation	0	0	Spousal support	blocked	Total taxes	0 3
Operating losses	0	0	Total	(698)	# WHA	0 8
Ca. operating loss adj.	0	0	Proposed, tactic 9		Net wage paycheck/mo	0 3,069
Roy, partnerships, S corp, trusts	0	0	CS Payor	Pet.	Comb. net spendable	5,141
Rental income	0	0	Presumed	(698)	Percent change	0.0%
Misc ordinary tax. inc.	0	0	Basic CS	(698)	Default Case Settings	
Other nontaxable income	1,744	0	Add-ons	0		
New-spouse income	0	0	Presumed Per Kid			
Adj. to income (ATI)	0	0	Child 1	(262)		
SS paid other marriage	0	0	Child 2	(436)		
Ptr Support Pd. other P'ships	0	0	CA FAM 4055(b)(7) CS LIA range			
CS paid other relationship	0	0		\$635 to \$698		
Health ins.	0	0	Spousal support	blocked		
Qual. Bus. Inc. Ded.	0	0	Total	(698)		
Itemized deductions	0	0	Savings	0		
Other medical expenses	0	0	No releases			
Property tax expenses	0	0				
Ded. interest expense	0	0				
Charitable contribution	0	0				
Miscellaneous itemized	0	0				
Required union dues	0	0				
Cr. for Pd. Sick and Fam. L.	0	0				
Mandatory retirement	0	0				
Hardship deduction	0*	0*				
Other gdl. deductions	0	0				
AMT info (IRS Form 6251)	0	0				
Child support add-ons	0	0				
TANF, SSI and CS received	0	0				



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8:30 a.m./1:30 p.m.

22. RACHEAL TODD V. BRANDON TODD

PFL20170294

On January 26, 2022, Petitioner filed an ex parte request for orders requesting visitation with Respondent be suspended pending the hearing on adoption. The court granted the request in part on January 28, 2022, ordering that Respondent's parenting time was modified to therapeutically supervised. The court provided instructions on selecting a reunification therapist. Pending the recommendation of the reunification therapist, Respondent was to have no visitation.

Petitioner's Request for Order was filed on January 28, 2022. Parties were referred to Child Custody Recommending Counseling (CCRC) for an appointment on March 9, 2022 and a review hearing on April 28, 2022. Upon review of the court file, the Respondent was not served with the RFO or the referral to CCRC.

No parties appeared for the CCRC appointment, and a nonappearance letter was issued. Therefore, the matter is dropped from the court's calendar and the previous orders regarding custody and visitation remain in full force and effect with no modifications.

TENTATIVE RULING #22: MATTER DROPPED FROM COURT'S CALENDAR DUE TO NONAPPEARANCE AT CCRC BY BOTH PARTIES. ALL PRIOR ORDERS REGARDING CUSTODY AND VISITATION REMAIN IN FULL FORCE AND EFFECT WITH NO MODIFICATIONS.